

No. 4102-41-75/15327-A.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the Management of M/s Hemla Embroidery Mills (P) Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK
Reference No. 5 of 1972

Between

SHRI NIRANJAN LAL AND THE MANAGEMENT OF M/S HEMLA
EMBROIDERY MILL (P) LTD., FARIDABAD

Present : Shri Darshan Singh, for the workman.
Shri R.C. Sharma, for the management.

AWARD

Shri Niranjan Lal was in the service of M/s Hemla Embroidery Mills (P) Ltd., Faridabad as a Machine-man. His services were allegedly terminated by the management on 23rd August, 1971 without any justification. Feeling aggrieved, he demanded reinstatement with full back wages. His demand having not been accepted by the management, the matter was taken up for conciliation which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute for adjudication to this court vide order No. ID/FD/189-E-71/318, dated 5th January, 1972, with the following term of reference :

“Whether the termination of services of Shri Niranjan Lal was justified and in order ? If not, to what relief is he entitled?”

Usual notices were given to the parties. The workman concerned did not file any statement of claim. The management, on the other hand, pleaded that it was a case of self abandonment of service by the workman concerned who had voluntarily submitted his resignation which had been duly accepted by the management. The workman did not file any replication to the above plea of the management. My learned predecessor framed the following issues in the case :—

- (1) Whether the workman resigned the post and his resignation was duly accepted ?
- (2) If the issue No. 1 is found in favour of the workman whether the termination of services of Shri Niranjan Lal was justified and in order ? If not, to what relief is he entitled ?

Shri Joginder Singh Uppal Managing Director of the Establishment has come into the witness box and sworn testimony to the above plea of resignation of the workman. He has proved the resignation Ex. M.1, intimation of the acceptance of the resignation Ex. M. 2 and registered cover Ex. M.3 The workman has made his own statement controverting the above allegations of the management. According to him, he had never submitted the resignation nor does it bear his signatures. Another witness Shri Khazan Chand Secretary of the Union W.W. 2 has deposed that Shri Niranjan Lal had filed an application under section 33-C(2) of the Industrial Disputes Act, 1947 through the union for computation of minimum wages which had displeased the management and for that reason his services had been illegally terminated. He has further stated that he had approached the Managing Director Shri Joginder Singh Uppal to take this workman on duty but the latter had insisted that the application under section 33-C(2) should first be withdrawn.

The case has been argued at length and I have given a very careful thought to the material on record and the contentions raised on both sides. The learned representative of the workman has laid much emphasis on the fact that the so called resignation was not submitted by the workman to the Managing Director Shri Joginder Singh Uppal and according to his own showing it was received through the Factory Manager Shri Lal Chand Joshi who has not been examined as a witness in the case. He has further argued that the workman who had put in service for a number of years could not be expected to submit his resignation keeping in view the problem of acute un-employment every-where.

I am afraid the contentions raised on behalf of the workman concerned are without much force and the facts on record do not warrant the same. In the first instance, no plea has been raised in the demand notice that the resignation of the workman was obtained by the managements by fraud, misrepresentation or coercion. No statement of claim was filed in the case to raise the above pleas, so much so, that no rejoinder even was put in to contradict the above plea of the management specifically raised in the written statement. In the absence of these pleas in the statement of claim or by way of filing a rejoinder, the bald statement of the workman that he did not submit the resignation does not carry weight and can not safely be believed.

As for the argument that the resignation was not submitted to Shri Joginder Singh Uppal, Managing Director of the Establishment the solitary witness examined in the case and it was received by him through the Factory Manager. The statement of Shri Uppal is itself quite clear on the point. He has no doubt admitted that the resignation was received by him through the Factory Manager Shri Lal Chand Joshi. But there was nothing wrong about it. The workman could very well submit the resignation to the Factory Manager. Shri Uppal Managing Director has further stated that he had called the workman for his satisfaction and enquired from him as to why he was leaving service to which the reply given by the workman was that his wages were low and, therefore, he did not want to work in this factory and wanted his account to be cleared. This fact has been mentioned in the resignation Exhibit M. 1 also wherein it has been stated that he was resigning because he had got better job somewhere else. According to Shri Uppal the account of the workman was checked and he was asked to collect his dues but he had refused to do the same as he was insisting on the payment of the gratuity amount to which he was not entitled as there was no gratuity scheme in force in the Establishment at that time. He has further stated that the management is prepared to pay to the workman all his dues including the amount of gratuity if any due and even to re-employ him as he is in need of workers in the factory but Shri Niranjan Lal is not willing to accept this offer. The statement of Shri Uppal Managing Director of the Establishment read as a whole does not give rise to any inference that the management had any *malafide* intention in terminating the services of the workman against his wishes by forging his letter of resignation or by obtaining the same by coercion, fraud or misrepresentation. The willingness of the management to pay his entire dues including the amount of gratuity although no gratuity scheme was in force in this Establishment on 23rd August 1971, when the services of the workman came to an end as a result of his resignation, coupled with the fact that the management is still willing to re-employ him rather goes a long way to prove the *bonafide* of the management. If the management had felt annoyed on account of the application under section 33-C(2) action must have been taken against all the six or seven workmen who had moved the application.

So, on the facts established and for the reasons aforesaid, I am satisfied that Shri Niranjan Lal workman concerned had voluntarily submitted his resignation which was duly accepted by the management and as such the question of the termination of his

services by the management or its justification did not arise. Both the issues are decided in favour of the management and against the workman and it is held that he is not entitled to the relief of reinstatement. He would, however, be at liberty to collect his legal dues, if any and the management would be advised to re-employ him as stated by Shri Uppal Managing Director, of course, taking into consideration the present requirements in the factory. The award is made accordingly but without any order as to costs.

Dated the 16th April, 1975.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 880, dated the 21st April, 1975.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment, Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer
Labour Court, Haryana,
Rohtak.

No. 4091-41-75/15594.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Panipat Co-operative Sugar Mills, Ltd., Panipat.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 69 of 1973

between

SHRI JAI SINGH AND THE MANAGEMENT OF M/S PANIPAT CO-OPERATIVE
SUGAR MILLS LTD., PANIPAT.

Present : Shri Onkar Parshad, for the workman.
Shri Surinder Kaushal, for the management.

AWARD

The facts material for the disposal of this reference under section 10 (i) (c) of the Industrial Disputes Act, 1947, may briefly be stated as under.

Shri Jai Singh was in the service of M/s Panipat Co-operative Sugar Mills Ltd., Panipat. He raised a dispute that the management had illegally terminated his services w.e.f. 13th January, 1973 without giving him any warning, charge-sheet or notice. On receipt of the failure report from the Conciliation Officer the Governor of Haryana, referred the dispute for adjudication to this court,—vide order No. 44377-81, dated 20th November, 1973, with the following term of reference :—

“Whether the termination of services of Shri Jai Singh was justified and in order ?
If not, to what relief is he entitled ?”

The parties put in their respective pleadings. The management contested the claim of the workman mainly on the ground that he was only a casual worker and had no

lien on any job, whereas the workman contended that he had worked as Bagasse Coolie during the season 1970-71 and that he had received bonus for this period. From the pleadings of the parties the issue that arose for determination in the case was precisely the same as per the term of reference stated above.

The management has examined 2 witnesses including Shri Hem Raj Sharma, Senior Time Keeper M.W. 1 and Shri N.L. Batra, Office Superintendent M.W. 2 besides relying upon the letter, dated 28th February, 1973 Ex. M.1 addressed to the Labour Officer-cum-Consiliation Officer stating that out of the 32 Bagasse Coolies demanded by the union of the workmen to be made as seasonal permanent in the meeting of the Board of Directors held on 21st April, 1972 after considering the work-load, 21 Bagasse Coolies had been made seasonal permanent and their seniority list had also been prepared.

On the other hand, Shri Jai Singh, workman has made his own statement besides examining Shri Gain Chand, General Secretary Sugar Mill Mazdoor Sangh, Panipat. The documentary evidence produced by the workman consists of the copies of the orders, dated 21st November, 1973, 23rd November, 1973 and 30th October, 1974 relating to the appointments and promotions of some workers in the Mills.

The case has been fully argued on both sides and I have given a careful consideration to the material on record. There is no denying the fact that Shri Jai Singh had been in the service of the management as a Bagasse Coolie and that his services had come to an end on 13th January, 1973. The question that arises for determination, however, is whether he had a lien on the job held by him or he was only a casual worker appointed from time to time during the season according to the requirement of work. The contention raised on behalf of the management in the case that his appointment was of purely temporary/casual nature and he had no permanent lien or right to hold the post appears to be correct and is borne out from the evidence on record, oral as well as documentary. The depositions made by Shri Hem Raj Sharma, Senior Time Keeper and Shri N.L. Batra, Office Superintendent are clear on the point and the workman concerned has not been able to produce any reasonable rebuttal of the same.

There is another fact on record. A list of 32 Bagasse Coolies had been submitted to the management by means of demand notice, dated 30th January, 1973 for being made seasonal permanent and after considering this demand the Board of Directors in their meeting held on 21st April, 1973 had made 21 Bagasse Coolies as seasonal permanent, taking into consideration the work-load and their seniority. The name of the present workman is not included in the list of the said 21 Bagasse Coolies who were made seasonal permanent. This action on the part of the management was in a way accepted by the workman without raising any protest, as would be clear from the cross-examination of Shri Gian Chand, General Secretary of the Union W.W. 2. According to him, 2 more workers had subsequently been made seasonal permanent and all these workers were senior to the workman concerned in the present reference.

So, all the facts taken together prove conclusively that the management had acted bonafide in accepting the demand of the Bagasse Coolies for being made seasonal permanent according to their seniority and taking into consideration the work load in the Mills. Since the present workman was junior to those who had been made seasonal permanent and had all along been working on casual basis, on daily wages paid fortnightly according to the days he actually worked, he had manifestly, no lien or right to be retained in service when the work did not justify it. There is no indication that there had been any fresh recruitments of raw hands or persons juniors to him had been retained in service. Since he had worked only for intermitant periods according to the requirement of the work and had been paid off accordingly, his claim for reinstatement or payment of back dues is clearly not well-founded. In such a case no charge-sheet, warning or notice was necessary as having been appointed as a casual worker on daily wages on purely temporary basis for the period the work justified his appointment, the same automatically came to an end when there was no longer any work for him. The case might have been different if he was a seasonal permanent workman or had established his right to be made so, But that is not the case here.

The workman concerned has thus made out no good case to interfere with the impugned order of the termination of his services which is held to be justified and in order and, in the result, he is not entitled to any relief by way of reinstatement or payment of back wages. The award is made accordingly but without any order as to costs.

Dated the 15th April, 1975.

O.P. SHARMA,

Presiding Officer,
Labour Court, Haryana, Rohtak.

Endst. No. 885, dated the 21st April, 1975.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,
Presiding Officer,

Labour Court, Haryana, Rohtak.

The 22nd May, 1975

No. 4998-4Lab-75/15953.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s Haryana Co-operative Transport Ltd., Kaithal.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK.

Reference No. 45 of 1970

between

SHRI BRIJ MOHAN, WORKMAN AND THE MANAGEMENT OF M/S HARYANA
CO-OPERATIVE TRANSPORT LTD., KAITHAL.

Present—

Shri Harbans Lal, for the workman.

Nemo for the management.

AWARD

Shri Brij Mohan, workman concerned was in the service of M/s Haryana Co-operative Transport Ltd., Kaithal. His services were terminated by the management with effect from 30th August, 1968 allegedly without any justification and with malafide intention. He demanded reinstatement with payment of full back wages. His demand was not accepted by the management. This gave rise to an industrial dispute. The matter was taken up for conciliation by means of demand notice, dated 11th September, 1968 which had also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this court,—vide order No. 6091-E-Lab-70/22887, dated 31st July, 1970, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference:—

Whether the termination of services of Shri Brij Mohan was justified and in order? If not, to what relief is he entitled?

The parties were called upon, to put in their respective pleadings. The workman concerned filed the statement of claim reiterating his demand for reinstatement and payment of back dues as earlier raised through the demand notice referred to above. None appeared on behalf of the management to contest his claim in spite of service. The case was, therefore, proceeded *ex parte* against the management and the workman concerned was directed to produce evidence in support of his claim.

Several adjournments have been given in the case but Shri Brij Mohan the workman concerned is not coming forward even to make his own statement what to speak of leading any other evidence. His authorised representative Shri Harbans Lal, the Union Leader who had given the demand notice leading to the reference has stated that he has written several letters to this workman but without any response and he has no instructions from him to proceed with the case.

In view of the above, no further adjournment in the case is called for nor has any request been made on behalf of the workman concerned. The issue involved is decided against the workman for want of evidence and for default of his appearance to pursue the claim holding that he is not entitled to any relief by way of reinstatement or payment of back dues. The award is made accordingly but without any order as to cost.

O. P. SHARMA,

Dated 30th April, 1975.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1039, dated 1st May, 1975

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 23rd May, 1975

No. 4928-4 Lab-75/16114.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s P. G. Engineers, 5E/35, N. I. T., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 98 of 1974

between

SHRI SHAHABUDDIN, WORKMAN AND THE MANAGEMENT OF M/S P. G. ENGINEERS,
5E/35, N. I. T., FARIDABAD

Present :—

Shri Shahabuddin, workman concerned with his authorised representative Shri Madhu Sudan Saran Cowshish.

Shri A. S. Sharma, Assistant of Shri R. C. Sharma, for the management.

AWARD

Shri Shahabuddin, workman concerned was in the service of M/s P. G. Engineers, 5E/35, N. I. T., Faridabad. The management terminated his services on 25th December, 1973. He raised a demand for reinstatement but without success. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947,—vide order No. ID/FD/74/27737, dated 25th July, 1974 with the following term of reference:—

Whether the termination of services of Shri Shahabuddin was justified and in order? If not, to what relief is he entitled?

The parties put in their respective pleadings giving rise to the following issues:—

- (1) Whether the demand the subject matter of the present reference was first raised on the management and rejected by it before taking up the matter for conciliation? If not, with what effect?
- (2) Whether Shri Shahabuddin is not a workman as defined under section 2(s) of the Industrial Disputes Act, 1947? (on management)
- (3) Whether the termination of services of Shri Shahabuddin was justified and in order? If not, to what relief is he entitled?

No evidence has yet been led on other side. It is, however, not necessary to go into the merits of the case and the issues involved as an amicable settlement has been arrived at between the parties. Their statements have been recorded.

Shri Shahabuddin workman concerned owe Rs. 1,500 to the management which amount had been received by him as advance and according to the settlement arrived at between the parties, the management has forgone its claim to recover this amount from him and in turn he has given up all his claims against the management including the right of reinstatement or re-employment.

A no dispute award is, therefore, given in terms of the above settlement as desired by the parties. There shall, however, be no order as to costs.

Dated 30th April, 1975.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endt. No. 770, dated 6th May, 1975

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 30th April, 1975.

The 27th May, 1975

No. 4937-41-75/16191.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad. in respect of the dispute between the workmen and the management of M/s Kishore Textile Mills, Bahalgarh (Sonapat).

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 53 of 1974

between

THE WORKMEN AND THE MANAGEMENT OF M/S KISHORE TEXTILE MILLS,
BAHALGARH (SONEPAT)

Present:

Nemo for the workmen.

Shri R. C. Sharma, for the management.

AWARD

This judgement will dispose of this and the connected references Nos. 66, 67, 68, 169, 170, 171 and 179 of 1974 which have been consolidated to avoid duplication of work, there being some common questions of law and facts involved in all these references. The facts relevant for the judgement may briefly be stated as under.

The workmen of M/s Kishore Textile Mills, Rajinder Weaving Factory, Om Weaving Factory and Jagdish Weaving Factory, Bahalgarh (Sonapat) raised certain demands regarding grant of dearness allowance, supply of uniforms, revision of rates of different quality of clothes etc. which were not accepted by the management and on receipt of the failure report from the Conciliation Officer in each case, the Governor of Haryana, referred the dispute for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 with the following term of reference:—

1. Reference No. 58 of 1974 between the workmen vs. M/s Kishore Textile Mills, Bahalgarh (Sonapat):

- (1) Whether dearness allowance should be granted to the workers of the factory? If so, with what details?
- (2) Whether seasonal uniforms along with pair of shoes should be provided to the workers of the factory? If so, with what details?

2. Reference 66 of 1974 between the workmen vs. M/s Rajindera Weaving Factory, Bahalgarh (Sonapat):

- (1) Whether dearness allowance should be granted to the workers of the factory? If so with what details?
- (2) Whether seasonal uniforms along with pair of shoes should be provided to the workers of the factory? If so, with what details?

3. Reference No. 67 of 1974 between the workmen vs. M/s Om Weaving Factory, Bahalgarh (Sonepat):

- (1) Whether dearness allowance should be granted to the workers of the factory? If so, with what details?
- (2) Whether seasonal uniforms along with pair of shoes should be provided to the workers of the factory? If so, with what details?

4. Reference No. 68 of 1974 between the workmen vs. M/s Jagdish Weaving Factory, Bahalgarh (Sonepat):

- (1). Whether dearness allowance should be granted to the workers of the factory? If so, with what details?
- (2) Whether seasonal uniforms along with pair of shoes should be provided to the workers of the factory? If so, with what details?

5. Reference No. 169 of 1974 between the workmen vs. M/s Rajinder Weaving Factory, Bahalgarh (Sonepat):

Whether the existing rates of different qualities of cloth manufactured in the factory should be revised? If so, with what details and from which date?

6. Reference No. 170 of 1974 between the workmen vs. M/s Jagdish Weaving Factory, Bahalgarh (Sonepat):

Whether the existing rates of different qualities of cloth manufactured in the factory should be revised? If so, with what details and from which date?

7. Reference No. 171 of 1974 between the workmen vs. M/s Kishore Textile Mills, Bahalgarh (Sonepat):

Whether the existing rates of different qualities of cloth manufactured in the factory, should be revised? If so, with what details and from which date?

8. Reference No. 179 of 1974 between the workmen and the management of M/s Om Weaving Factory Sonepat:

Whether the existing rates of different qualities of cloth manufactured in the factory should be revised? If so, with what details and from which date?

The parties were called upon to put in their respective pleadings in all the cases. The workmen have filed no claim statements in References Nos. 169, 170, 171, 179 of 1974. In Reference Nos. 58, 66, 67, 68 of 1974 they have no doubt put in the claim statements but they have elected not to appear in person or through authorised representative to pursue their demands. Shri Rajinder Singh Dhayia who

appeared on behalf of the workmen in all these cases had no letter of authority nor is he an office bearer of the Textile Workers Union, Sonapat the demand notices leading to the present reference.

Shr. R. C. Sharma, authorised representative of the management in each case has sworn testimony to the fact that the Textile Workers Union, Sonapat had no *locus standi* to raise the dispute on behalf of the workmen in each concern as it had no representative capacity. He has further deposed that Rajindera Weaving Factory and the Jagdish Weaving Factory have been closed and there has been no business in these concerns since 1st November, 1974. According to him the financial position of the remaining concerns is also not sound so as to meet the demands raised by the workmen who were already being paid minimum wages prescribed by the Government linked with the cost of living index at the rate of 75 paise per point.

I have given a careful consideration to the facts involved and the contentions raised on behalf of the management in each case. The burden was on the workmen concerned to establish by producing cogent and convincing evidence that the said union had a representative capacity and had the *locus standi* to raise the disputes on their behalf. There is apparently no reason to disbelieve the sworn testimony of Shri R. C. Sharma discussed above, especially when the workmen are not coming forward to pursue their demand in person or through legally authorised representative. As already observed, two of the concerns, namely, Rajindera Weaving Factory and Om Weaving Factory had already closed and the financial position of the remaining concerns is also stated not to be sound enough to meet the demands to the workmen.

So, in view of my above observations the present references stand to be rejected as the disputes, covered by them having not been properly espoused and in the circumstances, the workmen are not entitled to any relief. The award in each case is made accordingly but no order as to costs.

Dated 8th May, 1975.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

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No. 790, dated 9th May, 1975

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.
Dated 8th May, 1975.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.